

(c) Agencies shall assess administrative costs incurred for processing and handling delinquent debts. The calculation of administrative costs should be based on actual costs incurred or upon estimated costs as determined by the assessing agency.

(d) Unless otherwise established in a contract, repayment agreement, or by statute, agencies shall charge a penalty, pursuant to 31 U.S.C. 3717(e)(2), not to exceed six percent a year on the amount due on a debt that is delinquent for more than 90 days. This charge shall accrue from the date of delinquency.

(e) Agencies may increase an “administrative debt” by the cost of living adjustment in lieu of charging interest and penalties under this section. “Administrative debt” includes, but is not limited to, a debt based on fines, penalties, and overpayments, but does not include a debt based on the extension of Government credit, such as those arising from loans and loan guaranties. The cost of living adjustment is the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the debt was determined or last adjusted. Increases to administrative debts shall be computed annually. Agencies should use this alternative only when there is a legitimate reason to do so, such as when calculating interest and penalties on a debt would be extremely difficult because of the age of the debt.

(f) When a debt is paid in partial or installment payments, amounts received by the Government shall be applied first to any contingency fees added to the debt, second to outstanding penalties, third to administrative costs other than contingency fees, fourth to interest, and last to principal. For purposes of this paragraph (f), “contingency fees” are administrative costs resulting from fees paid by a Federal agency to other Federal agencies or private collection contractors for collection services rendered when the fees are paid from the amounts collected from a debtor.

(g) Agencies shall waive the collection of interest and administrative

costs imposed pursuant to this section on the portion of the debt that is paid within 30 days after the date on which interest began to accrue. Agencies may extend this 30-day period on a case-by-case basis. In addition, agencies may waive interest, penalties, and administrative costs charged under this section, in whole or in part, without regard to the amount of the debt, either under the criteria set forth in these standards for the compromise of debts, or if the agency determines that collection of these charges is against equity and good conscience or is not in the best interest of the United States.

(h) Agencies shall set forth in their regulations the circumstances under which interest and related charges will not be imposed for periods during which collection activity has been suspended pending agency review.

(i) Agencies are authorized to impose interest and related charges on debts not subject to 31 U.S.C. 3717, in accordance with the common law.

[65 FR 70396, Nov. 22, 2000, as amended at 73 FR 12274, Mar. 7, 2008]

§ 901.10 Analysis of costs.

Agency collection procedures should provide for periodic comparison of costs incurred and amounts collected. Data on costs and corresponding recovery rates for debts of different types and in various dollar ranges should be used to compare the cost effectiveness of alternative collection techniques, establish guidelines with respect to points at which costs of further collection efforts are likely to exceed recoveries, assist in evaluating offers in compromise, and establish minimum debt amounts below which collection efforts need not be taken.

§ 901.11 Use and disclosure of mailing addresses.

(a) When attempting to locate a debtor in order to collect or compromise a debt under parts 900–904 of this chapter or other authority, agencies may send a request to the Secretary (or designee) to obtain a debtor’s mailing address from the records of the Internal Revenue Service.

§ 901.12

(b) Agencies are authorized to use mailing addresses obtained under paragraph (a) of this section to enforce collection of a delinquent debt and may disclose such mailing addresses to other agencies and to collection agencies for collection purposes.

§ 901.12 Exemptions.

(a) The preceding sections of this part, to the extent they reflect remedies or procedures prescribed by the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996, such as administrative offset, use of credit bureaus, contracting for collection agencies, and interest and related charges, do not apply to debts arising under, or payments made under, the Internal Revenue Code of 1986, as amended (26 U.S.C. 1 et seq.); the Social Security Act (42 U.S.C. 301 et seq.), except to the extent provided under 42 U.S.C. 404 and 31 U.S.C. 3716(c); or the tariff laws of the United States. These remedies and procedures, however, may be authorized with respect to debts that are exempt from the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996, to the extent that they are authorized under some other statute or the common law.

(b) This section should not be construed as prohibiting the use of these authorities or requirements when collecting debts owed by persons employed by agencies administering the laws cited in paragraph (a) of this section unless the debt arose under those laws.

PART 902—STANDARDS FOR THE COMPROMISE OF CLAIMS

Sec.

902.1 Scope and application.

902.2 Bases for compromise.

902.3 Enforcement policy.

902.4 Joint and several liability.

902.5 Further review of compromise offers.

902.6 Consideration of tax consequences to the Government.

902.7 Mutual releases of the debtor and the Government.

AUTHORITY: 31 U.S.C. 3711.

SOURCE: 65 FR 70402, Nov. 22, 2000, unless otherwise noted.

31 CFR Ch. IX (7–1–09 Edition)

§ 902.1 Scope and application.

(a) The standards set forth in this part apply to the compromise of debts pursuant to 31 U.S.C. 3711. An agency may exercise such compromise authority for debts arising out of activities of, or referred or transferred for collection services to, that agency when the amount of the debt then due, exclusive of interest, penalties, and administrative costs, does not exceed \$100,000 or any higher amount authorized by the Attorney General. Agency heads may designate officials within their respective agencies to exercise the authorities in this section.

(b) Unless otherwise provided by law, when the principal balance of a debt, exclusive of interest, penalties, and administrative costs, exceeds \$100,000 or any higher amount authorized by the Attorney General, the authority to accept the compromise rests with the Department of Justice. The agency should evaluate the compromise offer, using the factors set forth in this part. If an offer to compromise any debt in excess of \$100,000 is acceptable to the agency, the agency shall refer the debt to the Civil Division or other appropriate litigating division in the Department of Justice using a Claims Collection Litigation Report (CCLR). Agencies may obtain the CCLR from the Department of Justice's National Central Intake Facility. The referral shall include appropriate financial information and a recommendation for the acceptance of the compromise offer. Justice Department approval is not required if the agency rejects a compromise offer.

§ 902.2 Bases for compromise.

(a) Agencies may compromise a debt if the Government cannot collect the full amount because:

(1) The debtor is unable to pay the full amount in a reasonable time, as verified through credit reports or other financial information;

(2) The Government is unable to collect the debt in full within a reasonable time by enforced collection proceedings;

(3) The cost of collecting the debt does not justify the enforced collection of the full amount; or